

ASSEMBLY BILL NO. 317—ASSEMBLYMEN MUNFORD, MOORE, FIORE; GARDNER, NEAL, OHRENSCHALL, O’NEILL AND SHELTON

MARCH 16, 2015

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing common-interest communities. (BDR 10-712)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to common-interest communities; requiring approval before certain actions relating to capital improvements may be made by a unit-owners’ association; requiring the Real Estate Division of the Department of Business and Industry to employ certain persons; authorizing certain employees of the Real Estate Division to conduct investigations and issue citations; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1 Existing law requires a unit-owners’ association to provide advance written
- 2 notice to each unit’s owner of a meeting at which an assessment for a capital
- 3 improvement is to be considered or action is to be taken. (NRS 116.3115) **Section 1**
- 4 of this bill requires an association to affirmatively vote or receive written
- 5 agreement of a majority of the units’ owners before making an expenditure for a
- 6 capital improvement which exceeds 1 percent of the association’s annual budget or
- 7 designating a capital improvement as a reserve account item.
- 8 Existing law authorizes the Real Estate Division of the Department of Business
- 9 and Industry to employ certain personnel, including investigators, which are
- 10 necessary to carry out the provisions of existing law relating to common-interest
- 11 communities. (NRS 116.620, 116A.210) Existing law also authorizes certain
- 12 employees of state agencies and boards, such as the Manufactured Housing
- 13 Division of the Department and the State Contractors’ Board, to prepare, sign and
- 14 serve written citations on persons accused of violating certain laws or regulations.
- 15 (NRS 171.17751) **Sections 2 and 3** of this bill require the Real Estate Division to
- 16 employ investigators to: (1) investigate alleged violations of existing law relating to
- 17 common-interest communities; (2) investigate any alleged occurrence of fraud,
- 18 theft or embezzlement involving a unit-owners’ association; and (3) issue citations



19 for certain misdemeanor offenses. **Section 4** of this bill further authorizes the  
20 Division to designate certain employees to prepare, sign and serve written citations,  
21 and **section 5** of this bill provides that such employees have the powers of a peace  
22 officer.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 116.3115 is hereby amended to read as  
2 follows:

3 116.3115 1. Until the association makes an assessment for  
4 common expenses, the declarant shall pay all common expenses.  
5 After an assessment has been made by the association, assessments  
6 must be made at least annually, based on a budget adopted at least  
7 annually by the association in accordance with the requirements set  
8 forth in NRS 116.31151. Unless the declaration imposes more  
9 stringent standards, the budget must include a budget for the daily  
10 operation of the association and a budget for the reserves required  
11 by paragraph (b) of subsection 2.

12 2. Except for assessments under subsections 4 to 7, inclusive,  
13 or as otherwise provided in this chapter:

14 (a) All common expenses, including the reserves, must be  
15 assessed against all the units in accordance with the allocations set  
16 forth in the declaration pursuant to subsections 1 and 2 of  
17 NRS 116.2107.

18 (b) The association shall establish adequate reserves, funded on  
19 a reasonable basis, for the repair, replacement and restoration of the  
20 major components of the common elements and any other portion of  
21 the common-interest community that the association is obligated to  
22 maintain, repair, replace or restore. The reserves may be used only  
23 for those purposes, including, without limitation, repairing,  
24 replacing and restoring roofs, roads and sidewalks, and must not be  
25 used for daily maintenance. The association may comply with the  
26 provisions of this paragraph through a funding plan that is designed  
27 to allocate the costs for the repair, replacement and restoration of the  
28 major components of the common elements and any other portion of  
29 the common-interest community that the association is obligated to  
30 maintain, repair, replace or restore over a period of years if the  
31 funding plan is designed in an actuarially sound manner which will  
32 ensure that sufficient money is available when the repair,  
33 replacement and restoration of the major components of the  
34 common elements or any other portion of the common-interest  
35 community that the association is obligated to maintain, repair,  
36 replace or restore are necessary. Notwithstanding any provision of  
37 the governing documents to the contrary, to establish adequate



1 reserves pursuant to this paragraph, including, without limitation, to  
2 establish or carry out a funding plan, the executive board may,  
3 without seeking or obtaining the approval of the units' owners,  
4 impose any necessary and reasonable assessments against the units  
5 in the common-interest community. Any such assessments imposed  
6 by the executive board must be based on the study of the reserves of  
7 the association conducted pursuant to NRS 116.31152.

8 3. Any assessment for common expenses or installment thereof  
9 that is 60 days or more past due bears interest at a rate equal to the  
10 prime rate at the largest bank in Nevada as ascertained by the  
11 Commissioner of Financial Institutions on January 1 or July 1, as  
12 the case may be, immediately preceding the date the assessment  
13 becomes past due, plus 2 percent. The rate must be adjusted  
14 accordingly on each January 1 and July 1 thereafter until the balance  
15 is satisfied.

16 4. Except as otherwise provided in the governing documents:

17 (a) Any common expense associated with the maintenance,  
18 repair, restoration or replacement of a limited common element  
19 must be assessed against the units to which that limited common  
20 element is assigned, equally, or in any other proportion the  
21 declaration provides;

22 (b) Any common expense benefiting fewer than all of the units  
23 or their owners may be assessed exclusively against the units or  
24 units' owners benefited; and

25 (c) The costs of insurance must be assessed in proportion to risk  
26 and the costs of utilities must be assessed in proportion to usage.

27 5. Assessments to pay a judgment against the association may  
28 be made only against the units in the common-interest community at  
29 the time the judgment was entered, in proportion to their liabilities  
30 for common expenses.

31 6. If damage to a unit or other part of the common-interest  
32 community, or if any other common expense is caused by the willful  
33 misconduct or gross negligence of any unit's owner, tenant or  
34 invitee of a unit's owner or tenant, the association may assess that  
35 expense exclusively against his or her unit, even if the association  
36 maintains insurance with respect to that damage or common  
37 expense, unless the damage or other common expense is caused by a  
38 vehicle and is committed by a person who is delivering goods to, or  
39 performing services for, the unit's owner, tenant or invitee of the  
40 unit's owner or tenant.

41 7. The association of a common-interest community created  
42 before January 1, 1992, is not required to make an assessment  
43 against a vacant lot located within the community that is owned by  
44 the declarant.



1 8. If liabilities for common expenses are reallocated,  
2 assessments for common expenses and any installment thereof not  
3 yet due must be recalculated in accordance with the reallocated  
4 liabilities.

5 9. The association shall provide written notice to each unit's  
6 owner of a meeting at which an assessment for a capital  
7 improvement is to be considered or action is to be taken on such an  
8 assessment at least 21 calendar days before the date of the meeting.

9 **10. An association shall not:**

10 **(a) Make an expenditure for a capital improvement which**  
11 **exceeds 1 percent of the association's annual budget; or**

12 **(b) Designate a capital improvement as a reserve account item,**  
13 **↪ without a vote or written agreement of the owners of the units**  
14 **to which at least a majority of votes of the members of the**  
15 **association are allocated.**

16 **Sec. 2.** NRS 116.620 is hereby amended to read as follows:

17 116.620 1. Except as otherwise provided in this section and  
18 within the limits of legislative appropriations, the Division ~~may~~  
19 **shall** employ experts, attorneys, investigators, consultants and other  
20 personnel as are necessary to carry out the provisions of this  
21 chapter.

22 2. **The Division shall require investigators who are employed**  
23 **by the Division to:**

24 **(a) Investigate any alleged violation of this chapter;**

25 **(b) Investigate any alleged occurrence of fraud, theft or**  
26 **embezzlement involving an association; and**

27 **(c) Issue a misdemeanor citation prepared manually or**  
28 **electronically pursuant to NRS 171.1773 to a person who violates**  
29 **a provision of this chapter that is punishable as a misdemeanor.**  
30 **An investigator may request that any constable, sheriff or other**  
31 **peace officer assist in the issuance of such a citation.**

32 3. The Attorney General shall act as the attorney for the  
33 Division in all actions and proceedings brought against or by the  
34 Division pursuant to the provisions of this chapter.

35 ~~3.~~ 4. The Attorney General shall render to the Commission  
36 and the Division opinions upon all questions of law relating to the  
37 construction or interpretation of this chapter, or arising in the  
38 administration thereof, that may be submitted to the Attorney  
39 General by the Commission or the Division.

40 **Sec. 3.** NRS 116A.210 is hereby amended to read as follows:

41 116A.210 1. Except as otherwise provided in this section and  
42 within the limits of legislative appropriations, the Division ~~may~~  
43 **shall** employ experts, attorneys, investigators, consultants and other  
44 personnel as are necessary to carry out the provisions of this  
45 chapter.



1 2. *The Division shall require investigators who are employed*  
2 *by the Division to:*

3 (a) *Investigate any alleged violation of this chapter;*

4 (b) *Investigate any alleged occurrence of fraud, theft or*  
5 *embezzlement involving an association; and*

6 (c) *Issue a misdemeanor citation prepared manually or*  
7 *electronically pursuant to NRS 171.1773 to a person who violates*  
8 *a provision of this chapter that is punishable as a misdemeanor.*  
9 *An investigator may request that any constable, sheriff or other*  
10 *peace officer assist in the issuance of such a citation.*

11 3. The Attorney General shall act as the attorney for the  
12 Division in all actions and proceedings brought against or by the  
13 Division pursuant to the provisions of this chapter.

14 ~~13~~ 4. The Attorney General shall render to the Commission  
15 and the Division opinions upon all questions of law relating to the  
16 construction or interpretation of this chapter, or arising in the  
17 administration thereof, that may be submitted to the Attorney  
18 General by the Commission or the Division.

19 **Sec. 4.** NRS 171.17751 is hereby amended to read as follows:

20 171.17751 1. Any board of county commissioners or  
21 governing body of a city may designate the chief officer of the  
22 organized fire department or any employees designated by the chief  
23 officer, and certain of its inspectors of solid waste management,  
24 building, housing and licensing inspectors, zoning enforcement  
25 officers, parking enforcement officers, animal control officers,  
26 traffic engineers, marshals and park rangers of units of specialized  
27 law enforcement established pursuant to NRS 280.125, and other  
28 persons charged with the enforcement of county or city ordinances,  
29 to prepare, sign and serve written citations on persons accused of  
30 violating a county or city ordinance.

31 2. The Chief Medical Officer and the health officer of each  
32 county, district and city may designate certain employees to prepare,  
33 sign and serve written citations on persons accused of violating any  
34 law, ordinance or regulation of a board of health that relates to  
35 public health.

36 3. The Chief of the Manufactured Housing Division of the  
37 Department of Business and Industry may designate certain  
38 employees to prepare, sign and serve written citations on persons  
39 accused of violating any law or regulation of the Division relating to  
40 the provisions of chapters 118B, 461, 461A and 489 of NRS.

41 4. The State Contractors' Board may designate certain of its  
42 employees to prepare, sign and serve written citations on persons  
43 pursuant to subsection 2 of NRS 624.115.

44 5. *The Real Estate Division of the Department of Business*  
45 *and Industry may designate certain of its employees to prepare,*



1 *sign and serve written citations on persons pursuant to NRS*  
2 *116.620 or 116A.210.*

3 **6.** An employee designated pursuant to this section:

4 (a) May exercise the authority to prepare, sign and serve  
5 citations only within the field of enforcement in which the employee  
6 works;

7 (b) May, if employed by a city or county, prepare, sign and  
8 serve a citation only to enforce an ordinance of the city or county by  
9 which the employee is employed; and

10 (c) Shall comply with the provisions of NRS 171.1773.

11 **Sec. 5.** NRS 289.300 is hereby amended to read as follows:

12 289.300 1. A person employed as an investigator by the  
13 Private Investigator's Licensing Board pursuant to NRS 648.025 has  
14 the powers of a peace officer.

15 2. A person employed as a criminal investigator by the State  
16 Contractors' Board pursuant to NRS 624.112 has the powers of a  
17 peace officer to carry out the person's duties pursuant to subsection  
18 2 of NRS 624.115.

19 **3.** *A person employed as an investigator by the Real Estate*  
20 *Division of the Department of Business and Industry pursuant to*  
21 *NRS 116.620 or 116A.210 has the powers of a peace officer to*  
22 *carry out the person's duties pursuant to NRS 116.620 or*  
23 *116A.210.*





